



United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

March 29, 2019

VIA EMAIL

Danielle Tarantolo, Esq.
New York Legal Assistance Group
7 Hanover Square
New York, New York 10004

Re: *Quero et al. v. DeVos*, 18 Civ. 9509 (GBD)

Dear Danielle:

I write on behalf of Defendant Elisabeth DeVos, Secretary of the United States Department of Education (“Defendant”), in response to Plaintiffs’ document requests dated February 28, 2019. Defendant’s responses to Plaintiff’s document requests are below, and the referenced documents will be provided by electronic file transfer.

1. A copy of any email sent to Plaintiff Courtney Francis notifying him that the closed school discharge notice was available in his online servicer account.

As previously discussed, on October 3, 2017, EdFinancial Services (“EdFinancial”), Mr. Francis’s loan servicer, posted a letter to his online account informing him that he might be eligible for a closed school discharge, and sent him an email notifying him that he had received a new message concerning his student loans and to log into his EdFinancial account to view it. EdFinancial has informed Defendant that it does not have a copy of the specific email sent to Mr. Francis. However, EdFinancial has provided a template of the email, a screenshot of Mr. Francis’s borrower history reflecting that the email was sent on October 3, 2017, and a template of the letter that was posted to Mr. Francis’s account. Those documents, Bates-stamped DOE 0001-4, are being produced herewith.

2. A copy of any email sent to Plaintiff Kellin Rodriguez notifying him that the closed school discharge notice was available in his online servicer account.

As previously discussed, on October 6, 2017, FedLoan Servicing (“FedLoan”), Mr. Rodriguez’s loan servicer, posted a letter to his online account informing him that he might be eligible for a closed school discharge, and sent him an email notifying him that he had received a new message concerning his student loans and to log into his FedLoan account to view it. FedLoan has informed Defendant that it does not have a copy of the specific email sent to Mr. Rodriguez. However, FedLoan has provided a template of the email, a screenshot of Mr. Rodriguez’s correspondence history showing that the email was sent on October 6, 2017, a copy of the letter that was posted to Mr. Rodriguez’s account, and a copy of Mr. Rodriguez’s borrower

history showing that the letter was posed on October 6, 2017. Those documents, Bates-stamped DOE 0009-13 and DOE 0061, are being produced herewith.

3. Copies of all communications to each Named Plaintiff regarding his election of electronic correspondence in connection with either studentloans.gov or his online servicer account (other than the terms and conditions for studentloans.gov, which you provided by email on February 1st).

Defendant objects to this request on the ground that it is vague and ambiguous, including because Plaintiffs appear to intend the term “communications” to include information that appeared on a screen Plaintiffs accessed in addition to letters or electronic correspondence. Defendant also objects to this request on the ground that, in light of the fact that Mr. Quero applied for a closed school discharge before his loan servicer sent notice to its borrowers regarding their potential eligibility for a discharge, and Mr. Quero thus was not sent such a notice, any communications he may have received regarding his election of electronic correspondence are not relevant to a claim or defense in this litigation.

Subject to these objections, Defendant is producing: (i) a template of a letter sent to Mr. Francis on October 12, 2016, Bates-stamped DOE 0005; (ii) a screenshot of Mr. Francis’s borrower history showing that the letter was sent on that date, Bates-stamped DOE 0006; (iii) a copy of a letter sent to Mr. Rodriguez on September 10, 2014, Bates-stamped DOE 0014-15; (iv) a template of an email sent to Mr. Rodriguez on June 16, 2015, Bates-stamped DOE 0016; (v) a screenshot of Mr. Rodriguez’s borrower history showing that the email was sent on that date, Bates-stamped DOE 0017; and (vi) a screenshot of a message sent to Mr. Quero on November 18, 2018, Bates-stamped DOE 0024-25, in response to this request.

4. To the extent you are unable to provide responses to #1-3, please provide policies of the Department and the applicable Servicer regarding the transmission of these communications to borrowers.

As stated above, Defendant is producing documents in response to Request Nos. 1 through 3. Nonetheless, Defendant is producing: (i) documentation regarding Defendant’s policies, Bates-stamped DOE 0029-30; (ii) EdFinancial’s terms and conditions applicable to borrowers who elect electronic correspondence after their loans have been assigned to EdFinancial, Bates-stamped DOE 0008; and (iii) documents reflecting FedLoan’s policies regarding electronic correspondence, Bates-stamped DOE 0018-23, in response to this request. Additional information regarding FedLoan’s policies is available on its website, https://accountaccess.myfedloan.org/contactUs/index.cfm?event=selfHelp&topic_key=14. Defendant also refers Plaintiffs to the studentloans.gov terms and conditions provided by email on February 1, 2019, and in response to Request No. 5 below.

5. **Please confirm that the studentloans.gov terms and conditions that you provided by email on February 1st were the terms and conditions used at the time each Named Plaintiff made any electronic correspondence election in connection with studentloans.gov. If they were not, please provide the studentloans.gov terms and conditions used at those times.**

The terms and conditions provided by email on February 1, 2019, are those that appeared on the studentloans.gov website as of that date. Defendant is producing herewith documents reflecting the terms and conditions as of the date Mr. Francis and Mr. Rodriguez elected to receive electronic correspondence, Bates-stamped DOE 0031-60.¹

6. **Records showing on what date each of the three Named Plaintiffs created his online servicer account. (Based our review of records, we believe that Mr. Francis and Mr. Rodriguez created their accounts on or around September 26, 2018, and that Mr. Quero created his account on or around November 18, 2018.)**

Defendant is producing records reflecting that Mr. Francis created his online account on September 26, 2018; Mr. Rodriguez created his online account on September 26, 2018; and Mr. Quero created his online account on July 16, 2018, Bates-stamped DOE 0007, DOE 0062, and DOE 0024-25, in response to this request.

7. **Please confirm that Plaintiff Christopher Quero was never sent a closed school discharge notice (which we understand was because he had already applied for a closed school discharge at the time OSLA sent out the notices to its borrowers). If this is not correct please provide a copy of the notice provided to Mr. Quero and any email sent to Mr. Quero notifying him that the notice was available in his online servicer account.**

As you state, Mr. Quero's loan servicer, Oklahoma Student Loan Assistance ("OSLA"), did not send him a closed school discharge notice because he had already applied for a closed school discharge at the point OSLA sent such notices to its borrowers.

* * *

¹ Mr. Francis elected to receive e-correspondence on September 14, 2016, and Mr. Rodriguez elected to receive e-correspondence on August 29, 2014. Mr. Quero elected to receive e-correspondence on December 16, 2015, *see* DOE 0026-28, but when his information was transferred to his loan servicer, Oklahoma Student Loan Assistance, that field appeared blank so he continued to receive paper correspondence until November 18, 2018. Version 13.0 of the studentloans.gov terms and conditions was implemented on or about April 11, 2014 and Version 14.3 was implemented on or about December 16, 2015.

Please feel free to contact me by telephone at the number below if you have any questions or would like to discuss these matters further.

Sincerely,

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Southern District of New York
Attorney for Defendant

By: 

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